

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

In re:	:	MDL Docket No. 4:03CV1507-WRW
	:	4:05CV00497
PREMPRO PRODUCTS LIABILITY LITIGATION	:	
	:	
	:	
HELENE RUSH	:	PLAINTIFF
	:	
v.	:	
	:	
WYETH,	:	DEFENDANT

ORDER

Motion for Use of Prior Testimony

Pending is Plaintiff's Motion for Use of Prior Testimony From Diet-Drug Litigation as Impeachment (Doc. No. 445). The motion is DENIED without prejudice. If the issue arises at trial, I will address it outside the hearing of the jury.

Smoking

The December 27, 2006 Order reads , "Plaintiff's Motion in Limine No. 43 to Bar No Reference to Plaintiff's Smoking, Alcohol, or Prescription Drug Use is GRANTED in PART and DENIED in PART . . . References to smoking will not be permitted unless Defendant can show me heavier evidence than they presented during the hearing referenced above."¹ On January 12,

¹Doc. No. 419.

2007, Wyeth submitted it “Submission Regarding Smoking as an Accepted Risk Factor.”²

Plaintiff has responded³ and Defendant has replied.⁴

References to smoking as a risk factor of breast cancer will be permitted.

Fred Hassan’s Incomplete Deposition

Wyeth’s Motion to Strike Plaintiff’s Designations of Fred Hassan’s Incomplete Deposition Testimony (Doc. No. 451) is DENIED. If Defendant truly wants to cross-examine Mr. Hassan, I will do my best to assist you getting him available.

IT IS SO ORDERED this 19th day of January, 2007.

/s/ Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE

²Doc. No. 449.

³Doc. No. 466.

⁴Doc. No. 469.